IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO.167 OF 2005

WITH

CIVIL APPLICATION NO.99 OF 2005

Lotus Construction. ...Petitioner.

Vs.

Shailesh Salarsaheb Madarsaheb & anr..Respondents.

.....

Mrs.M.M.Patel i/b. M.M.Patel & Co.for the Petitioner.

.....

CORAM : DR.D.Y.CHANDRACHUD, J.

December 20, 2005.

P.C. :

The Learned Trial Judge has by his order dated 17th August 2005 entered a finding, while dealing with the issue of pecuniary jurisdiction that the relief sought in the suit is not in regard to the declaration of ownership, nor is there a claim for recovery of possession. Ex-facie a perusal of the prayer in the plaint would show that the Plaintiff is only seeking an injunction on the

basis that he is in possession. In fact, prayer clause (c)(i) of the Plaint on which reliance is placed is as follows:

> (c)(i) that this Hon'ble Court may be pleased to restrain the defendant No.3, its office bearers, partners, contractors and/or any person or persons claiming through, under or by them, by an order and injunction of this Hon'ble Court from dispossessing the Plaintiff from the suit property and/or interfering with the peaceful use, occupation, possession and enjoyment of the plaintiff and his family members in respect of the suit structure and the suit property i.e. land bearing Survey No.15873/3 C.T.S. No.1291 of Village Eksar, Taluka Borivali, District Bombay Suburban as more particularly shown by red colour boundary line on the plan Exhibit "A" to the plaint and/or any part of portion thereof, otherwise than in due process of law."

In these circumstances, the finding of the Learned Trial Judge that the valuation has been properly made does not suffer from any error so as to warrant exercise of the revisional jurisdiction of this Court. There is no merit in the revision

which is accordingly dismissed.

In view of the disposal of the Civil Revision Application, the Civil Application does not survive and is accordingly disposed of.

....